In the High Court of Uttaranchal at Nainaital.

Criminal Revision No. 47/2001
(Old No. 1441/1987)

Sawan Singh S/o Kanthu Singh,
R/o village Shonti Patti Phaigul,
Tehsil Pratap Nagar, P.S. Tehri
District Tehri Garhwal. …..Revisionist.

Vs.

State of U.P. .. Respondent.

Sri K.N.Joshi, learned counsel for the revisionist.
Sri K.S.Rautela, Brief Holder for the state-respondent.
Date of judgment: 22.3.2004.

Hon'ble Irshad Hussain, J.

This is a criminal revision against the judgment and order dated 7-9-1987 passed by the Sessions Judge, Tehri Garhwal in criminal appeal No. 5 of 1987. The said appeal was filed against the judgment dated 8-4-1987 passed by Chief Judicial Magistrate, Tehri Garhwal , whereby the revisionist was convicted and sentenced to undergo R.I. for one year and also to pay fine of Rs. 2000/- under section 7/16 of the Prevention of Food Adulteration Act, 1954 . In appeal the conviction was maintained. However the sentence awarded to the revisionist was modified and instead of R.I. for one year he was sentenced to R.I. for a period of six months. Excepting this the sentence was maintained. Aggrieved by the appellate judgment this revision is preferred.

The learned counsel for the revisionist has mainly confined his argument to the quantum of sentence by referring to the peculiar circumstances of the case and contending that the revisionist had been in agony and pain on account of the pending prosecution for a very long period of more than 20 years. In this case the sample of mustard oil was taken on 27-10-1983 and against the conviction this revision has come up for hearing after more than 20 years. The learned counsel argued that the revisionist is not reported to have been involved in any criminal

activity since the date of the taking of the sample and in the totality of the circumstances of the case and particularly when the revisionist had been denied of his right of speedy trial and justice suitable reduction in the sentence awarded to the revisionist may be made.

The submission of the learned counsel for the revisionist has been contested by the learned Brief Holder for the respondent-state on the ground that the offence of adulteration is a social crime.

In suitable cases where the Constitutional mandate of speedy trial and justice has been found to be violated the courts have been taking lenient view and even if minimum sentence prescribed for an offence the same has been reduced suitability keeping in view the circumstances of a particular case and to meet the ends of justice. Reference in this regard can be made to the decision of the Hon'ble Supreme Court in the matter of **Municipal Corporation of Delhi Vs. Tek Chand Bhatia; A.I.R. 1980 Supreme Court, 360.** Considering this aspect of the matter and the fact that more than 20 years from the date of taking of the sample of mustard oil have passed and the revisionist is not reported to have indulged in any criminal activity, the sentence of imprisonment may be reduced to the period of sentence already undergone but at the same time to enhance the fine to Rs. 3000/- instead of Rs. 2000/- imposed by the Judicial Magistrate.

For the reasons aforesaid the revision is partly allowed. The conviction of the revisionist under section 7/16 of the Prevention of Food Adulteration Act, 1956 is maintained. However the sentence of imprisonment of a period of six months is reduced to the sentence of imprisonment already undergone and to pay a fine of Rs. 3000/- (Rs. Three thousand) for the said offence. In default of payment of fine he shall suffer R.I. for 6(six) months.

Let the record be sent back to the learned Magistrate for compliance. Compliance report be submitted within one month.

(Irshad Hussain, J.)

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